

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 0108-0239/US			
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>25 October 2007</u></p> <p>Signature <u>/John J. Oskorep/</u></p> <p>Typed or printed name <u>John J. Oskorep, Esq.</u></p>	Application Number 10/789,571	Filed 27 February 2004			
	First Named Inventor Radic et al.				
	Art Unit 2617	Examiner Rampuria, Sharad K.			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding: 5px;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. 41,234 Registration number _____</p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></td><td style="width: 50%; vertical-align: top; padding: 5px; text-align: center;"><p><u>/John J. Oskorep/</u> Signature</p><p><u>John J. Oskorep, Esq.</u> Typed or printed name</p><p><u>312-222-1860</u> Telephone number</p><p><u>25 October 2007</u> Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 41,234 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>	<p><u>/John J. Oskorep/</u> Signature</p> <p><u>John J. Oskorep, Esq.</u> Typed or printed name</p> <p><u>312-222-1860</u> Telephone number</p> <p><u>25 October 2007</u> Date</p>
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<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Radic et al.)	Art Unit: 2617
)	
Serial No.: 10/789,571)	Examiner: Rampuria, Sharad K.
)	
Filing Date: 02/27/2004)	Docket No.: 0108-0239
)	

For: *"METHODS AND APPARATUS FOR FACILITATING
THE DETERMINATION OF GPS LOCATION INFORMATION
FOR A MOBILE STATION WITHOUT DISRUPTING COMMUNICATIONS
OF A VOICE CALL"*

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Applicant respectfully submits this *Pre-Appeal Brief Request For Review* in response to the Final Office Action mailed on 25 June 2007, and the subsequent Advisory Action mailed on 25 September 2007, for the above-identified patent application.

I. Summary of Disclosure.

According to the present invention, a technique to facilitate the determination of Global Positioning System (GPS) location information without disrupting voice communications of a voice call involving a mobile station is provided. For reduced cost, the inventive technique utilizes the same wireless transceiver for both voice call communications via a wireless communication network and GPS fix communications via a GPS system. Although the same wireless transceiver is utilized to facilitate the determination of GPS location information, voice communications of the voice call are not adversely disrupted according to the present invention.

II. Claim Rejections. In the Final Office Action of 25 June 2007, the Examiner rejected claims of the present application under 35 U.S.C. § 103(a) based on U.S. Patent No. 6,477,363 to Ayoub and U.S. Patent Application Publication US2005/0075116 to Laird et al.

III. Clear Errors In The Examiner's Rejections. The Examiner's rejections of the present claims fail specifically due to at least one or more of the following clear errors made by the Examiner:

1. The Examiner Fails To Identify And Articulate Explicit Or Inherent Support In The Prior Art For The Amended Claimed Limitations. In the Amendment And Request For Reconsideration of 12 April 2007, the Applicant amended the claims to include limitations such as “[in response to receiving the voice call request:] prior to establishing the voice call, causing a GPS fix to be performed...” and “after the GPS fix is performed, retuning the wireless transceiver to signals of a wireless communication network.” It appears, however, that the Examiner has failed to address such additional amended claim limitations in the Final Office Action of 25 June 2007. Please refer to the arguments presented on page 18 of the Request For Reconsideration of 22 August 2007. Such failure to address the amended limitations in the Final Office Action is clear error.

2. The Prior Art In Combination Does Not Teach Or Suggest The Use Of The Same Wireless Transceiver In The Techniques As Claimed. All pending claims of the application recite that the mobile station utilizes the same “wireless transceiver” in the inventive technique. The wireless transceiver as claimed is “tuned” and “retuned” in order to perform a GPS fix in response to a voice call request but just prior to establishing the voice call. This is advantageous, for example, in that it allows for a reduced cost of the mobile station.

To date, however, the Examiner fails to identify, demonstrate, and/or articulate any teaching or suggestion regarding the use of the same “wireless transceiver” in Ayoub et al. as claimed. In fact, Ayoub et al. utilizes two different wireless transceivers in its techniques: a first wireless transceiver for voice calls (see FIG. 1 of Ayoub et al. which reveals a cellular transceiver 15) and a second wireless transceiver for GPS communications (see FIG. 1 of Ayoub et al. which reveals GPS antenna 11 and GPS module 12 which together form a GPS receiver).

As apparent, the Examiner is wrong and has made clear error in failing to identify any teaching or suggestion of this limitation in the prior art, and clear error in failing to respond to Applicant's previous assertions that Ayoub et al. fail to teach or suggest such limitation (see the Amendment And Request For Reconsideration of 12 April 2007 on pp. 11-12, and the Request For Reconsideration of 22 August 2007 on p.14). If the Examiner asserts that some different reference in the 35 U.S.C. §103(a) rejection teaches or suggests the use of the same wireless transceiver in such a technique, the Examiner has still committed clear error by (a) failing to identify, demonstrate, and/or articulate any such teaching or suggestion in the different reference; and (b) failing to provide any reasoning to combine such teaching with the teachings of Ayoub et al.

3. The First Alternative Technique Of Ayoub Et Al. Does Not Teach Or Suggest A GPS Fix Performed In Response To Receiving The Voice Call Request But Prior To Establishing The Voice Call. Pending claims 1-4 and 6-20 are limited to and recite "causing a GPS fix to be performed"... "in response to receiving [a] voice call request" but "prior to establishing the voice call" or the like. In these claims, the act of "causing a GPS fix to be performed" is appropriately indented within the confines of the linguistic framework of "in response to receiving the voice call request" for such proper interpretation.

In general, Ayoub et al. is used by the Examiner as the primary reference in the rejections, and Laird et al. is used in support of the proposed modifications to Ayoub et al. Note that Ayoub et al. actually teach two different alternative techniques, a first alternative technique of FIG. 1 (see col. 3 at line 66 through col. 5 at line 8 of Ayoub et al.) and a second alternative technique of FIG. 2 (see col. 5 at line 8 through col. 6 at line 38 of Ayoub et al.).

In the rejection of claims, the Examiner argues that the first alternative technique of Ayoub et al. teaches that a GPS fix is performed in response to receiving a voice call request but prior to establishing the voice call, with reference to column 4 of Ayoub et al. However, the Examiner has made clear error since, in Ayoub et al., the GPS fixes to obtain position data occur at the time of each one of a plurality of constant time intervals – not in response to receiving the voice call request.

Specifically, Ayoub et al. describe that "[t]he GPS receiver comprises a GPS antenna 11 which feeds the received signals from the satellites into a GPS module 12 calculating the

position of the mobile telephone resulting in a data item for longitude and latitude, resp. *The position data is acquired repetitively in constant time intervals, e.g. every five minutes*, and is stored in a controller 13 together with a time stamp representing the time of the position acquisition” (Emphasis Added) (see column 4 at lines 7-14 of Ayoub et al.). For the placing of the voice call, Ayoub et al. describe that “[w]hen an emergency call is requested from handset module 14 by pressing 911 on the keypad or pressing a dedicated panic button, a transceiver 15 generates the emergency call and communicates via an antenna 16 through the cellular network to the authority 4. *When the communication between the mobile phone and the authority is established, the position is translated into audio tones which are transmitted through the voice channel of the telephone call connection*” (Emphasis Added) (see column 4 at lines 15-23 of Ayoub et al.).

As apparent, Ayoub et al. does not indicate that a GPS fix occurs “in response to a voice call request” but rather that it occurs “repetitively in constant time intervals” where data are submitted when the communication is established (or e.g. alternatively communicated when “sent through the control channel during the setup of the call connect at col. 4 at lines 33-35). Thus, it is clear in the first alternative technique of Ayoub et al. that the GPS fix has already occurred – *prior to receiving any voice call request*– even though its resulting position data may be sent during the voice call. There is nothing in the description of the first alternative technique of Ayoub et al. to indicate otherwise, and the Examiner has not provided any reasoning to indicate otherwise. Again, this is clear error.

4. There Is No Reasoning Or Evidence Provided That One Ordinarily Skilled In The Art Would Modify The Second Alternative Technique Of Ayoub Et Al. So That The Mobile Telephone Location Needed Prior To Establishing A Voice Call Would Be Obtained During The Voice Call. The Examiner has not made any argument that the second alternative technique of Ayoub et al. should be modified to result in that which is claimed. The Applicant respectfully submits that there has been no adequate reasoning or evidence provided that one ordinarily skilled in the art would modify the second alternative technique of Ayoub et al. so that the location of the mobile telephone – which is needed prior to establishing the voice call – would be obtained and submitted during the voice call. This

would be clear error. Please refer to the Applicant's arguments on page 19-20 of the Request For Reconsideration of 22 August 2007.

5. The Prior Art In Combination Fails To Teach Or Suggest Limitations Associated With "A Request To Terminate A Voice Call" In Claims 21-34. With respect to claims 21-34 only, the prior art of record also fails to teach or suggest the step of "in response to identifying the trigger signal indicative of a request to terminate a voice call: causing a GPS fix to be performed with a GPS system using GPS assistance data to thereby obtain GPS measurement data" (e.g. claims 21-34). As one ordinarily skilled in the art would plainly appreciate in context, the claim limitations regarding "a trigger signal indicative of a request to terminate a voice call" simply means a trigger signal indicative of a request to end or cease communications of a pending voice call. However, the Examiner suggests otherwise. The Examiner's interpretation error is clear error since surrounding claim limitations would be rendered vitiated, meaningless, and/or non-sensical under the Examiner's interpretation. Please refer to the arguments previously made on pages 15-16 of the Request For Reconsideration of 22 August 2007.

The Applicant respectfully requests the panel of Examiners to consider the present Request and arguments with respect to the clear errors made by the Examiner, and take appropriate action based on the same. Thank you.

Respectfully Submitted,

/John J. Oskorep/

Date: 25 October 2007

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